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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/661,658	09/14/2000	Andrew D. Ellington	119927-1021	9207

7590 09/24/2002

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EXAMINER

EPPS, JANET L

ART UNIT

PAPER NUMBER

1635

DATE MAILED: 09/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/661,658

Applicant(s)

ELLINGTON ET AL.

Examiner

Janet Epps

Art Unit

1635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM

### THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 06 August 2002.  
     2b)  This action is non-final.

2a)  This action is FINAL.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4)  Claim(s) \_\_\_\_\_ is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
     5)  Claim(s) \_\_\_\_\_ is/are allowed.  
     6)  Claim(s) \_\_\_\_\_ is/are rejected.  
     7)  Claim(s) \_\_\_\_\_ is/are objected to.  
     8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.  
     10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.  
         Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
         If approved, corrected drawings are required in reply to this Office action.  
     12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a)  All b)  Some \* c)  None of:  
         1.  Certified copies of the priority documents have been received.  
         2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.  
     14)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
         a)  The translation of the foreign language provisional application has been received.  
     15)  Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)  
     2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
     3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.

4)  Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
     5)  Notice of Informal Patent Application (PTO-152)  
     6)  Other: *Notice to Comply Requirements* .

*Notice of Non-responsive Amendment*

1. The reply filed on 8-06-02 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant's amendment to the specification as filed does not comply with 37 CFR 1.121(b). Amendments to the specification filed after March 1, 2001 must comply with 37 CFR 1.121(b)(2) which states:

- (b) Specification other than the claims and listings provided for elsewhere ( § 1.96 and 1.825) .—
- (2) Amendment by replacement section . If the sections of the specification contain section headings as provided in §§ 1.77(b), 1.154(b), or § 1.163(c), amendments to the specification, other than the claims, may be made by submitting:
  - (i) A reference to the section heading along with an instruction to delete that section of the specification and to replace such deleted section with a replacement section;
  - (ii) A replacement section in clean form, that is, without markings to indicate the changes that have been made; and
  - (iii) Another version of the replacement section, on one or more pages separate from the amendment, marked up to show all changes relative to the previous version of the section. The changes may be shown by brackets (for deleted matter) or underlining (for added matter), or by any equivalent marking system.

2. Applicants requested that the sentence on page 21, that begins on line 18 and ends on line 20 of the specification be deleted and replaced with the sentence set forth in Applicant's amendment 8-06-2002. However, this request cannot be entered since page 21, lines 18-20, of the specification as filed, reads differently from the sentence referred to in Applicant's amendment.

*Sequence Listing*

3. Additionally, Applicant's Sequence Amendment is non-compliant since the CRF submitted with Applicant's amendment is damaged. See the attached CRF Problem Report and Notice to Comply.

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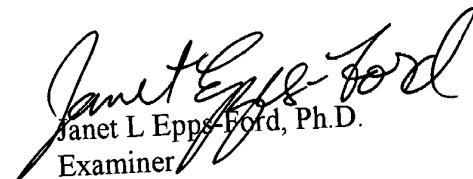
Art Unit: 1635

4. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet L Epps, Ph.D. whose telephone number is 703-308-8883. The examiner can normally be reached on M-T, Thurs-Friday 9:00AM to 7:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John LeGuyader can be reached on (703)-308-0447. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-746-5143 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

  
Janet L Epps-Ford, Ph.D.  
Examiner  
Art Unit 1635

JLE  
September 17, 2002

<b>Notice to Comply</b>	Application No.	Applicant(s)
	09/661,658	Ellington et al.
	Examiner Janet Epps	Art Unit 1635

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS  
CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE  
DISCLOSURES**

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- 7. Other

**Applicant Must Provide:**

- An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

PatentIn Software Program Support

Technical Assistance.....703-287-0200

To Purchase PatentIn Software.....703-306-2600

**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY**